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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,712	10/29/2001	Anthony Lionel Creed	50R4793	2617

7590 06/21/2004

Rogitz & Associates
Suite 3120
750 B Street
San Diego, CA 92101

EXAMINER	
KOSTAK, VICTOR R	

ART UNIT	PAPER NUMBER
2614	7

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/003,712	CREED ET AL.	
	Examiner	Art Unit	
	Victor R. Kostak	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *14-21* is/are allowed.

6)☒ Claim(s) *1 and 3-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Applicant's arguments with regard to amended claims 1 and 6 filed on 06/02/04 have been fully considered but they are not persuasive. The following rejections therefore apply.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-11 and 13 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Garr et al. (of record).

Reviewing Garr (noting particularly Figs. 1 and 2), he configures multiple devices based on dedicated sets of control codes (e.g. col. 3 lines 9-18), the devices including (but not limited to) a television 20, a VCR 16, and a cable decoder 12 (e.g. col. 4 lines 7-11), a VCR shown connected to a television in Figs. 1 and 2. The video tape (which is portable) with the device codes is engageable with the VCR and with the TV 20 through the VCR, as shown in Fig. 1, (the embodiment shown in Fig. 2 having the control codes sent to separate decoder 26 which is engageable with the devices wirelessly, the decoder being portable, i.e. detachable and removable). Garr also points out that the peripheral devices can be engaged with the decoder 26 directly and individually (col. 5 lines 20-24). The respective devices receive the control codes corresponding to set-up instructions from the tape or decoder 26, and the instructions are displayed on the TV (e.g. col. 6 lines 37-43).

Addressing amended claim 6, it would have been clearly obvious to one of ordinary skill in the art to verify that the instructions are followed and if not, repeating the instructions, for the

clear purpose of ensuring that the device in question will operate properly, which is the purpose of programming it. Surely when an error in procedure occurs, it would be clearly verified by the viewer not being able to use the device, or even to proceed to a next step, so the setting up will either have to be restarted or stepped back to some previous stage, or the device will not be operable. Such is in fact suggested by Garr as he discusses inputting manufacturer's model numbers and entering such numbers into the remote as well as using a menu which is typically displayed to provide guidance (col. 6 lines 37-49), thereby keeping the viewer apprised of the set-up progress, thereby meeting claims 6, 7 and 9.

Regarding claims 10 and 11, the claimed second peripheral device reads on the cable receiver 12, and the set-up instructions are also displayed on the TV for informing the viewer (as are the instructions for all of the appliances).

As for claim 13, the control code data (set-up data) can be obtained through the television signal that is received through the cable network (col. 8 lines 59-63).

3. Claims 1-5 and 12 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Garr et al. in view of Singkornrat et al.

As was pointed out in the last Office action, Garr points out that his invention is not limited to a VCR tape medium (col. 8 lines 56-59), thereby giving explicit suggestion to one of ordinary skill in the art that any suitable medium could be used to transfer set-up code data, the decoder 26 being another explicitly disclosed alternative medium.

Singkornrat discloses the benefit of using a flash memory for programming (setting up) devices (game cartridges), such as cutting down on loading time (col. 2 lines 8-20). In view of

this explicit benefit in programming devices and in view of the open-ended allowance by Garr, it would accordingly have been obvious to one of ordinary skill in the art to use any suitable medium, such as a flash memory, in the system of Garr, for providing set-up instructions to multiple peripheral devices, thereby meeting claims 1, 3 and 12.

Applicant argues that there was no suggestion given in the prior art, but the suggestion was explicitly given by Garr as explained above, repeated from the last Office action (an even more so given the allowances, benefits, and field of endeavor of Kamieniecki, now antedated). Moreover, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Garr explicitly gives an open-ended allowance, and Singkornrat discloses benefits of flash memories.

As for claim 4, the set-up procedure can be dynamically carried out by using the type or device model number (e.g. col. 6 lines 9-15).

As for claim 5, the TV and VCR are connected to a cable network by unit 12.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Claims 14-21 appear allowable over the prior art.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this final action should be mailed to:

Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.

Victor R. Kostak
Primary Examiner
Art Unit 2614

VRK